



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0034; Notice 2]

Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Michelin North America, Inc. (MNA), has determined that certain BFGoodrich gForce Rival S summer performance tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. MNA filed a noncompliance report dated April 17, 2017. MNA also petitioned NHTSA on May 5, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. NHTSA is granting the petition for the reasons stated in this decision.

FOR FURTHER INFORMATION CONTACT: Abraham Diaz, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5310, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview:

MNA has determined that certain BFGoodrich gForce Rival S summer performance tires do not fully comply with paragraph S5.2(d) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated April 17, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA also petitioned NHTSA on May 5, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR

part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on July 11, 2017, in the **Federal Register** (82 FR 32049). No comments were received. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA-2017-0034.”

II. Tires Involved: Approximately 370 BFGoodrich gForce Rival S summer performance tires, size P335/30ZR18 95W LL, manufactured between March 2, 2017, and March 30, 2017, are potentially involved.

III. Noncompliance: MNA explains that the noncompliance is that the tire size designation markings on the sidewalls of the subject tires do not contain the tire type code designator symbol from the United States Tire and Rim Association (USTRA) yearbook, as required by paragraph S5.2(d) of FMVSS No. 139. Specifically, the subject tire size reads “335/30ZR18 95W LL” but should read “P335/30ZR18 95W LL.”

IV. Rule Requirements: Paragraph S5.2(d) of FMVSS No. 139 titled “Performance Requirements” includes the requirements relevant to this petition:

Each tire shall conform to each of the following:

- Its load rating shall be that specified either in a submission made by an individual manufacturer, pursuant to paragraph S4, or in one of the publications described in paragraph S4 for its size designation, type and each appropriate inflation pressure.

- If the maximum load rating for a particular tire size is shown in more than one of the publications described in paragraph S4, each tire of that size designation shall have a maximum load rating that is not less than the published maximum load rating, or if there are differing maximum load ratings for the same tire size designation, not less than the lowest published maximum load rating.

V. Summary of MNA's Petition: MNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

- a) **Application** - The subject tires are marked with the correct maximum load¹, pressure, and load index, to ensure proper application. Additionally, the tires have the correct tread sticker label showing the correct size designation, part number, etc. to ensure proper application.
- b) **Usage** – These tires are marketed as performance tires and normally used for competition events on tracks or autocross courses. Thus, the tires are normally operated at the lightest loads possible for performance optimization.
- c) **Other Markings** – All other markings conform to the applicable regulations.
- d) **Performance** – The subject tires meet all performance requirements of FMVSS No. 139.

In the event, because of the missing “P” prefix, the tires are used to replace a 335/30ZR18 size tire, which has a higher load carrying capacity than a P335/30ZR18 tire,

¹ The petitioner referred to “Light Load” meaning the maximum load and pressure specified by USTRA publications.

there should be no performance concerns.² The tires have been tested to FMVSS No. 139 using the higher standard load as a basis and they fulfill all performance requirements.

MNA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempt from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA'S Analysis:

NHTSA has evaluated the merits of the inconsequential noncompliance petition submitted by MNA and has determined that this particular noncompliance is inconsequential to motor vehicle safety. Specifically, NHTSA considered the following factors when analyzing the risk to safety for these noncompliant tires:

- a) Application – Because the subject tires are marked with the load in accordance with the USTRA publications, and certified to the higher load indicated by ETRTO and corresponding to the missing “P”, the omission of the letter “P” would not have an impact on safety with respect to the application of the subject tires. With respect to the tires having a sticker showing the correct size designation, part number, and tire information at the point of sale, the agency does not find this information compelling in terms of granting this petition since once a tire is mounted on a vehicle, a motorist will rely on what is marked on the tire sidewall and not on the sticker at the point of sale.
- b) Usage – The petitioner contends that the subject tires are marketed and normally used for competition events on tracks or autocross courses. The petitioner further states that when

² The standard load index for size 335/30ZR18 tire is 102 according to the European Tyre and Rim Technical Organization (ETRTO) yearbook, which corresponds to a maximum load capacity of 850 kg. The P335/30ZR18 tire size according to the USTRA yearbook has a load index of 95, which corresponds to a maximum load capacity of 690 kg.

used for competition events, the tires are normally used in a lightly loaded condition to optimize performance during the event. NHTSA does not find this argument compelling because the tires are available for purchase by the public and use of the tires in other circumstances, such as driving to and from such competition events with multiple passengers onboard, is foreseeable.

- c) Other Markings – MNA states they properly marked the subject tires with the correct tire size, maximum pressure, intended load (1521 lbs/690 kgs), and load index. NHTSA finds these additional markings will mitigate the potential risk that consumers will load the tires to the higher load that applies to the ETRTO designation for tires having the same size, without the “P” designation.
- d) Performance – MNA provided evidence that they certified these tires to FMVSS No. 139 using the ETRTO specifications required for tires without the “P” designation. NHTSA finds this a compelling argument to support that, in the event the tires are used with the ETRTO specification, due to the missing “P,” there is a basis to believe they would be safe. This basis data was provided to the Agency and indicates that the tires have been tested to the loads specified by ETRTO specifications and thus are able to perform safely using the USTRA specifications.

Together, these factors have led NHTSA to conclude that it would be unlikely that an end user would disregard the tire load marked on the sidewall of the tire and instead rely on the load specified in the ETRTO yearbook. Furthermore, if a consumer were to load the tire to the load specified in the ETRTO books, the tires are designed and manufactured to comply with FMVSS No. 139 under those conditions, so there would be no increased risk to safety.

VII. NHTSA’s Decision:

In consideration of the foregoing, NHTSA has decided that Michelin North America has met its burden of persuasion that the FMVSS No. 139 noncompliance for the replacement tires identified in MNA's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is consequently exempted from the obligation of providing notification of and free remedy for, that noncompliance under 49 U.S.C. 30118 AND 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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Billing Code 4910-59-P

[FR Doc. 2019-07520 Filed: 4/15/2019 8:45 am; Publication Date: 4/16/2019]